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09/936,638	12/12/2002	Helmut Fennel	10543-032	8722

7590

06/06/2003

Steven L Oberholtzer  
Brinks Hofer Gilson & Lione  
PO Box 10395  
Chicago, IL 60610

EXAMINER

JACKSON, ANDRE K

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 06/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/936,638

Applicant(s)

FENNEL ET AL.

Examiner

Andre' K. Jackson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 09/12/01 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "13" has been used to designate both pressure the pressure sensor and the closed inlet valve on page 9, lines 12-14. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
5. The drawings are objected to because Figure 1 shows a reference number 2, which appears to have a German word adjacent, the number. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

6. Claims 1,2,5 and 6 are objected to because of the following informalities:
  - Regarding claim 1, line 8 "build up" should be --build-up-- to remain consistent in the application.
  - Regarding claim 2, line 2 "the time which" is printed twice.
  - Regarding Claim 5, line 2 "nagnitude" should be --magnitude--.
  - Regarding Claim 6, line 22 "mesuring" should be --measuring--.Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1,3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Meier (DE 4408879).

Regarding claim 1, Meier discloses a “Brake circuit with motor for hydraulic pump” which determines the viscosity of a brake fluid as it is affected by temperature of a vehicle brake circuit for a predetermined pressure build-up within time limits having the steps of detecting in at least one section of the brake circuit a pressure in the section and measuring at least one of a magnitude of the pressure or a time required for build up the pressure and relating the magnitude of the pressure or time to the viscosity (Abstract).

Regarding claim 3, Meier discloses where the maximum magnitude of the pressure is determined (Figure 1).

Regarding claim 4 Meier discloses where the magnitude of the pressure variation is determined as a function of time (Figure 2).

9. Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hadelar et al.

Regarding claim 6, Hadeler et al. disclose a "Vehicle dynamics control system using control variable derived by means of vehicle model" which has input quantities of steering angle, reference speed by a roadway driving condition converted to a yaw rate, torque, (Column 1, Column 4) and comparing these pressure quantities with quantities determined in a model and the pressure quantities are modified (Figure 3, Columns 5 and 6).

Regarding claim 7, Hadeler et al. disclose where the pressure quantities are converted into valve actuation signals and brake valves of the wheel brakes are actuated (Column 7).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier in view of Graeber (DE 19648596).

Regarding claim 2, Meier does not disclose where the time required to build-up the pressure is determined by way of switching valves of the brake circuit which initiate a pressure build up. However, Graeber (DE

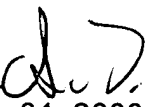
19648596) discloses where the time required to build up the pressure is determined by way of switching valves of the brake circuit, which initiate a pressure build-up (Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Meier to include where the time required to build-up the pressure is determined by way of switching valves of the brake circuit which initiate a pressure build up as taught by Graeber since this modification would enhance the efficiency of an anti-lock brake installation.

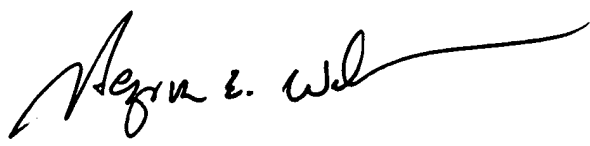
Regarding claim 5, Meier does not disclose where one of the magnitude or time of the pressure is determined after activation of a pump of the brake circuit delivering the brake fluid or after opening of a valve of the brake circuit. However, Graeber discloses where the magnitude or time of the pressure is determined after activation of a pump of the brake circuit delivering the brake fluid or after opening of a valve of the brake circuit (Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Meier to include where the magnitude or time of the pressure is determined after activation of a pump of the brake circuit delivering the brake fluid or after opening of a valve of the brake circuit as taught by Graeber since this modification would increase the performance of the braking system.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' K. Jackson whose telephone number is (703) 305-1522. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

A.J.   
May 31, 2003

  
HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800